

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 308**

Introduced by Redfield, 12

Read first time January 11, 2005

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to personal property; to amend section
- 2 25-21,194, Reissue Revised Statutes of Nebraska; to
- 3 change and provide damages for shoplifting and conversion
- 4 actions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. A person who is found responsible in a civil  
2 action for taking, detaining, or injuring personal property,  
3 including an action for the specific recovery of personal property,  
4 shall be liable to the owner of the personal property for:

5           (1) The greater of fifty dollars or one-half of the full  
6 value of the personal property if the personal property is  
7 recovered and is without damage or one hundred fifty percent of the  
8 full value, cost of repair, or cost of replacement of the personal  
9 property, whichever is applicable, if the personal property is not  
10 recovered or is damaged;

11           (2) Other property damage or loss sustained as a direct  
12 result of the incident;

13           (3) Costs of maintaining the civil action; and

14           (4) Reasonable attorney's fees if the owner retained the  
15 services of an attorney in maintaining the civil action and the  
16 civil action is not in the Small Claims Court.

17           Sec. 2. Section 25-21,194, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           25-21,194. ~~(1)(a) Any~~ (1) In addition to applicable  
20 penal sanctions, (a) any person who commits the crime of theft by  
21 shoplifting as provided in section 28-511.01 or whose conduct is  
22 described by section 28-511.01, or (b) any employee who takes  
23 possession of any cash, goods, wares, or merchandise without the  
24 consent of the owner or seller and with the intent of converting  
25 such cash, goods, wares, or merchandise to his or her own use  
26 without having paid the purchase price thereof, or (c) the parents  
27 of a minor who commits the crime of theft by shoplifting as  
28 provided in section 28-511.01 or whose conduct is described by

1 section 28-511.01 shall be civilly liable to the owner of the  
2 ~~merchandise in a civil action for~~ property for actual damages, if  
3 any, and for any and all of the following:

4 (i) ~~Actual~~ One-half of the full retail value of the  
5 merchandise if the merchandise is recovered and is restockable and  
6 resalable or one hundred fifty percent of the full retail value,  
7 cost of repair, or cost of replacement of the merchandise,  
8 whichever is applicable, if the merchandise is not recovered or is  
9 not restockable or resalable;

10 (ii) Other property damage or loss sustained as a direct  
11 result of the incident of shoplifting; 7 which may include, but  
12 ~~shall not be limited to, full retail value, cost of repair, or cost~~  
13 ~~of replacement of the merchandise;~~

14 ~~(iii)~~ (iii) Restitution of the greater of fifty dollars or  
15 one hundred percent of the full retail value, cost of repair, or  
16 cost of replacement of the merchandise, whichever is applicable;

17 (iv) Costs of maintaining the action; and

18 ~~(iii)~~ (v) Reasonable attorney's fees if such owner has  
19 retained the services of an attorney in maintaining the action and  
20 the action is not in the Small Claims Court.

21 (2) A conviction under any statute or ordinance shall not  
22 be a condition precedent to maintaining an action under this  
23 section.

24 (3) Recovery under this section may be had in addition  
25 to, and shall not be limited by, any other provision of law which  
26 limits the liability of the parents for tortious conduct of a  
27 minor. The liability of the parents and the minor shall be joint  
28 and several.

1           (4) This section shall not prohibit or limit any other  
2 cause of action which the owner of merchandise may have against a  
3 person who unlawfully or wrongfully takes merchandise from the  
4 owner's store or retail establishment.

5           (5) Judgments, but not claims, arising under this section  
6 may be assigned.

7           (6) The fact that an owner of merchandise may commence an  
8 action under this section shall not limit the right of such owner  
9 to demand, in writing, that any person who is liable for damages  
10 and costs under this section remit such damages and costs prior to  
11 the commencement of an action.

12           (7) This section shall only apply to causes of action  
13 which accrue after August 30, 1987.

14           (8) For purposes of this section, minor shall mean any  
15 individual under seventeen years of age.

16           (9) Notwithstanding any other provision of this section,  
17 no parent shall be liable to the owner of merchandise in a civil  
18 action unless such minor is living with such parent at the time the  
19 conduct described by section 28-511.01 is committed.

20           Sec. 3. Original section 25-21,194, Reissue Revised  
21 Statutes of Nebraska, is repealed.